

1 Stephanie L. Cooper, Esquire  
 Nevada Bar No. 5919  
 2 Michael W. Chen, Esquire  
 Nevada Bar No. 7307  
 3 THE COOPER CASTLE LAW FIRM  
 A Multi-Jurisdictional Law Firm  
 4 820 South Valley View Blvd.  
 Las Vegas, NV 89107  
 5 (702) 435-4175/(702) 435 4181 (facsimile)  
 Loan No. \*\*\*\*\*1789/ Our File No. 08-04-1751  
 6 Attorney for Secured Creditor  
 7 Wells Fargo Bank, NA, successor by merger to Wells Fargo Home Mortgage, Inc. fka Norwest  
 Mortgage, Inc.

**ECF FILED ON:**

**JUL 29 2009**

8 **UNITED STATES BANKRUPTCY COURT**  
 9 **DISTRICT OF NEVADA**

10 In re:  
 11

12 **TOM D. STUMBO,**  
 13

14 **Debtor(s)**

15 **CHAPTER 13**  
 16 **BANKRUPTCY NO.: 05-27478**  
 17 **DATE: May 07, 2008**  
 18 **TIME: 10:00 AM**

**AFFIDAVIT OF NON-COMPLIANCE OF BREACH AND FAILURE TO COMPLY WITH**  
**TERMS OF THE ADEQUATE PROTECTION ORDER**

19 MICHAEL W. CHEN BEING DULY, SWORN, DEPOSES AND SAY.

20 1. That I have the personal knowledge in regards to payments received at THE COOPER  
 21 CASTLE LAW FIRM located at 820 South Valley View Blvd., Las Vegas, NV 89107 in  
 22 regards to the subject mortgage loan.

23 2. That Debtor has failed to make the specified payments pursuant to the Adequate Protection  
 24 Order entered on Jun 11, 2008, attached hereto as Exhibit A.

25 3. That as of July 28, 2009, Debtor has failed to tender full cure of the breach amount  
 described in the Notice of Default dated July 7, 2009, attached hereto as Exhibit B.

4. I hereby certify this to be true and correct and hereby submit an Ex parte Order Terminating  
 the Automatic Stay for Non-Compliance of the terms of the Adequate Protection Order.

1 Submitted by:

2 THE COOPER CASTLE LAW FIRM  
3 A Multi-Jurisdictional Law Firm

4 By: \_\_\_\_\_ Date: \_\_\_\_\_

5 Michael W. Chen, Esq.

6 Affiant and Attorney for Secured Creditor

7 Wells Fargo Bank, NA, successor by merger to Wells Fargo  
8 Home Mortgage, Inc. aka Norwest Mortgage, Inc.

9 Michael W. Chen appeared before me on this 29th day of July, 2009 to signed the  
10 attached Affidavit of Non-Compliance of Breach and Failure to Comply with Terms of the  
11 Adequate Protection Order.

12   
13 Notary Public



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Doc #: 46

Filed: 06/11/2008

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Entered on Docket  
June 11, 2008



Hon. Linda B. Riegle  
United States Bankruptcy Judge

Stephanie L. Cooper, Esquire  
Nevada Bar No. 5919  
THE COOPER CASTLE LAW FIRM  
A Multi-Jurisdictional Law Firm  
820 South Valley View Blvd.  
Las Vegas, NV 89107  
(702) 435-4175/(702) 435 4181 (facsimile)  
yvette@ccfirm.com  
Loan No. 2981789 / Our File No. 08-04-1751

Attorney for Secured Creditor  
Wells Fargo Bank, NA, successor by merger to Wells Fargo Home Mortgage, Inc. fka Norwest Mortgage, Inc.

UNITED STATES BANKRUPTCY COURT

DISTRICT OF NEVADA

In re:

TOM D. STUMBO

Debtor(s)

CHAPTER 13  
BANKRUPTCY NO.: 05-27478-LBR  
DATE: May 07, 2008  
TIME: 10:00 AM  
MOTION NO.:

**ORDER FOR ADEQUATE PROTECTION AND TERMINATION OF AUTOMATIC STAY UPON NON-PAYMENT**

THIS MATTER HAVING come on for Hearing on May 07, 2008 in the above-referenced Court, before the Honorable Linda B. Riegle, United States Bankruptcy Judge, Michael W. Chen, Esq. of THE COOPER CASTLE LAW FIRM attorneys of record for Secured Creditor, having appeared and TOM D. STUMBO appearing through Daniel Rickert, Esq., and this Court being fully advised on the premises, and good cause appearing;

**EXHIBIT A**

1 IT IS HEREBY ORDERED, ADJUDGED, AND DECREED that Secured Creditor  
 2 acknowledges receipt of Cashier Check No. 010268, for the total amount of \$1,116.79. Said  
 3 payment represents the May 2008 monthly post petition payment on Secured Creditor's 1st Trust  
 4 Deed obligation.

5 IT IS FURTHER ORDERED, ADJUDGED AND DECREED that DEBTOR(S) shall  
 6 maintain regular monthly post-petition payments on Secured Creditor's 1st Trust Deed  
 7 obligation, encumbering the subject Property, generally described as 5121 Lydfort Court North  
 8 Las Vegas, Nevada 89030 ("Property" herein) and legally described as follows:

9  
 10 LOT SEVENTY-EIGHT (78) IN BLOCK THREE (3) OF SOMERSET  
 11 ESTATES 1 PHASE-1, AS SHOWN BY MAP THEREOF ON FILE IN BOOK  
 12 57 OF PLATS, PAGE 82, IN THE OFFICE OF THE COUNTY RECORDER,  
 13 CLARK COUNTY, NEVADA

14 in a timely fashion, commencing with the June 1, 2008 payment, and continuing thereafter on the  
 15 first day of each month. Payments are due on the 1st day of each month. Said payments shall be  
 16 made directly to Wells Fargo Bank, One Home Campus, BK Payment Processing, MAC  
 17 #X2302-045, Des Moines, IA 50328.

18 IT IS FURTHER ORDERED, ADJUDGED AND DECREED that TOM D. STUMBO  
 19 shall make additional payments to the above referenced address in the amount of \$1,093.77 each,  
 20 commencing June 20, 2008 and continuing for six (6) months until the post-petition arrearages  
 21 owing on Secured Creditor's 1st Trust Deed are cured. A definition of said arrearages are  
 22 detailed in the table listed below:

5 monthly payments at \$1,116.79	\$5,583.95
December 2007 through April 2008	
Accrued Late Charges	\$178.68
Filing Fee	\$150.00
Post-Petition Attorney Fees	\$650.00

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2

**Total Post-Petition Arrearage** **\$6,562.63**

3

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that the Debtor shall pay into the plan on time and must remain current as previously directed by the Trustee.

6

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that all actions taken by the Secured Creditor's in regards to the statutory remedies afforded under State Foreclosure Statutes are in full force and effect until Secured Creditor's Proof of Claim is paid in full.

0

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that in the event that the Debtor fails to comply with the regular monthly or stipulated payments ordered above, Secured Creditor shall send to the Debtor a written notice of default to TOM D. STUMBO at 5121 Lydford Court, North Las Vegas, Nevada 89030 with a copy sent to the Debtors counsel Daniel Rickert, Esq., located at 1118 E. Carson Avenue, Las Vegas, NV 89101, stating that the Debtor shall have ten (10) days to cure. An additional attorney's fee of \$100.00 will be incurred for each notice of default. In the event that the Debtor fails to timely cure said default of payments after ten the (10) day period has expired, Secured Creditor shall submit an Ex Parte Order Terminating the Automatic Stay. Upon entry of the Ex Parte Order, the Automatic Stay shall be immediately extinguished for all purposes as to Secured Creditor, Wells Fargo Bank, NA, successor by merger to Wells Fargo Home Mortgage, Inc. fka Norwest Mortgage, Inc., its assignees and/or successors in interest, may proceed with a foreclosure of and hold a Trustee's Sale on the subject property, pursuant to applicable state law, and commence any action necessary to obtain complete possession of the subject Property. Upon disposition of collateral, Secured Creditor will amend or delete its Proof of Claim and provide Trustee with the notice of same.

1

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that in the event case converts to a Chapter 7 proceeding the Secured Creditor will issue the same written notice as stated above for the total arrears to include pre-petition debt (if any should remain) that would

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1 have been paid through the former Chapter 13 Plan which Debtor will be given the same ten (10)  
2 day period to cure. In the event Debtor fails to cure said arrears after the ten (10) day period has  
3 expired, Secured Creditor shall submit an Ex Parte Order Terminating the Automatic Stay. Upon  
4 entry of the Ex Parte Order, the Automatic Stay shall be immediately extinguished for all  
5 purposes as to the Secured Creditor, Wells Fargo Bank, NA, successor by merger to Wells Fargo  
6 Home Mortgage, Inc. fka Norwest Mortgage, Inc., its assignees and/or successors in interest, may  
7 proceed with a foreclosure of and hold a Trustee's Sale on the subject property, pursuant to  
8 applicable state law, and commence any action necessary to obtain complete possession of the  
9 subject Property.

10 Submitted by:

11 THE COOPER CASTLE LAW FIRM  
12 A Multi Jurisdictional Law Firm

13 By: \_\_\_\_\_ Date: \_\_\_\_\_

14 Stephanie L. Cooper, Esq.  
15 Attorney for Secured Creditor  
16 Wells Fargo Bank, NA, successor by merger to Wells Fargo Home Mortgage, Inc.  
17 fka Norwest Mortgage, Inc.

18 APPROVED/DISAPPROVED

19 By:  Date: \_\_\_\_\_

20 Daniel Rickert, Esq.  
21 Attorney for TOM D. STUMBO

22 APPROVED/DISAPPROVED

23 By:  Date: \_\_\_\_\_

24 Kathleen A. Leavitt  
25 Standing Trustee

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**ALTERNATIVE METHOD re: RULE 9021:**

In accordance with Local Rule 9021, the undersigned certifies:

The court has waived the requirement of approval under LR 9021.

No parties appeared or filed written objections, and there is no trustee appointed in the case.

X I have delivered a copy of this proposed order to all counsel who appeared at the hearing, any unrepresented parties who appeared at the hearing, and any trustee appointed in this case, and each has approved or disapproved the order, or failed to respond as indicated below:

Daniel Rickert - approved

**Kathleen Leavitt - approved**

###



BRICE, VANDER  
LINDEN & WERNICK, P.C.

9441 LBJ Freeway, Suite 250 • Dallas, Texas 75243 • (972) 643-6600 • (972) 643-6698 (Fax)

July 7, 2009

Daniel P. Rickert  
Attorney At Law  
1118 East Carson Avenue  
Las Vegas, NV 89101

SENT REGULAR PRE-PAID AND CERTIFIED MAIL RRR# 7007 1490 0000 2311 3396

RE:	Creditor:	Wells Fargo Bank, N. A. successor by merger to Wells Fargo Home Mortgage, Inc. fka Norwest Mortgage, Inc.
	Debtor:	Tom D. Stumbo
	Case No.:	05-27478-LBR-13
	Loan No.:	xxx1789
	Alt. Ref. No.	111999678
	Our File No.:	7600-N-3311
	Collateral:	5121 Lydford Court North Las Vegas, Nevada 89030

#### NOTICE OF DEFAULT

We are the authorized agent for the above-referenced secured creditor in this proceeding.

An Order was entered in the above-referenced bankruptcy proceeding. According to our client's records, non-compliance with the requirements of the Order has now occurred. Pursuant to the terms of that Order, we are providing our client's Notice of Default to you.

To cure the default, \$2,480.74 must be received in our office in the form of a cashier's check or money order made payable to Wells Fargo Bank, N. A. successor by merger to Wells Fargo Home Mortgage, Inc. fka Norwest Mortgage, Inc. no later than 5:00 p.m. on July 17, 2009. An additional three (3) days will be allowed for mailing time. The amount to be paid represents the following delinquent payments:

<b>Total Due Per Agreed Order through July 7, 2009</b>	<b>\$22,352.77</b>
<b>Total Received From Debtor through July 7, 2009</b>	<b>\$19,872.03</b>
 <b>Total Past Due through July 7, 2009</b>	 <b>\$2,480.74</b>

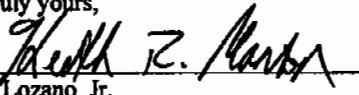
If you possess evidence which demonstrates that our client has received the delinquent payments noted above, please contact your attorney.

Our office address is: 9441 LBJ Freeway, Suite 350, Dallas, Texas 75243.

In the event the default is not cured within the time frame provided above, with an additional three (3) days allowed for mailing time, we shall complete any remaining pre-conditions that may exist to obtain relief from the automatic stay, and thereafter our client shall consider the stay terminated and shall be free to pursue its contractual and statutory rights, including, but not limited to the initiation of foreclosure proceedings of the above-referenced collateral.

This letter is an attempt to collect a debt and any information obtained will be used for that purpose.

Very truly yours,

  
Joe M. Lozano, Jr.  
Cristina Platon Camarata  
Cynthia Brown  
Adam R. Moore  
Keith Pearson  
Michael J. Burns  
Jennifer H. Brown

#### CERTIFICATION OF SERVICE

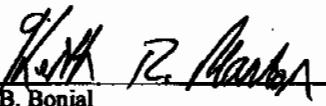
I, Hilary B. Bonial / Joe M. Lozano, Jr. / Cristina Platon Camarata / Cynthia Brown / Adam R. Moore / Keith Pearson, hereby certify that a true and correct copy of the foregoing Notice of Default has been served upon the following parties in interest by pre-paid regular U.S. Mail on the 7 day of July, 2009:

Trustee  
Kathleen A. Leavitt  
302 East Carson St, Suite 300  
Las Vegas, Nevada 89101

US Trustee  
OFFICE OF THE US TRUSTEE  
300 Las Vegas Boulevard South, Suite 4300  
Las Vegas, Nevada 89101

Debtor  
Tom D. Stumbo  
5121 Lydford Court  
North Las Vegas, Nevada 89031  
SENT REGULAR PRE-PAID AND CERTIFIED MAIL RRR# 7007 1490 0000 2311 3402

Stephanie Cooper Christensen  
The Cooper Christensen Law Firm, LLP  
820 South Valley View  
Las Vegas, Nevada 89107

  
Hilary B. Bonial  
Joe M. Lozano, Jr.  
Cristina Platon Camarata  
Max A. Wernick  
Lawrence J. Buckley  
Michael J. Burns  
Cynthia Brown  
Adam R. Moore  
Keith Pearson

7600-N-3311

REAL PROPERTY NOTICE OF DEFAULT LETTER